



# **Nevada State Board of Medical Examiners**

## **\* \* \* MINUTES \* \* \***

### **OPEN SESSION BOARD MEETING**

Held in the Conference Room at the offices of the  
Nevada State Board of Medical Examiners  
1105 Terminal Way, Suite 301, Reno, NV 89502

and videoconferenced to

the conference room of the Nevada State Board of Nursing  
2500 W. Sahara Avenue, Suite 207, Las Vegas, Nevada 89102

***FRIDAY, FEBRUARY 6, 2009 – 9:30 a.m.***

#### ***Board Members Present***

Benjamin J. Rodriguez, M.D., Vice President  
Renee West, Secretary-Treasurer  
Sohail U. Anjum, M.D.  
Javaid Anwar, M.D.  
Jean Stoess, M.A.  
S. Daniel McBride, M.D.  
Van V. Heffner  
Beverly A. Neyland, M.D.

#### ***Board Members Absent***

Charles N. Held, M.D., President

#### ***Staff Present***

Louis Ling, J.D., Executive Director  
Edward O. Cousineau, J.D., General Counsel  
Lyn E. Beggs, J.D., General Counsel  
Laurie L. Munson, Chief of Administration and Information Systems  
Douglas C. Cooper, Chief of Investigations  
Pamela Castagnola, Deputy Chief of Investigations  
Shawna Rice, Compliance Officer/Investigator  
Lynnette L. Daniels, Chief of Licensing  
Carolyn H. Castleman, Deputy Chief of Licensing  
Jerry C. Calvanese, M.D., Medical Reviewer

*Also Present*

Christine M. Guerci-Nyhus, J. D., Chief Deputy Attorney General  
Peter A. Mansky, M.D., Director, Nevada Health Professionals Assistance Foundation  
John Lanzillotta, P.A.-C, Physician Assistant Advisory Committee Member (in Las Vegas)  
Janet Wheble, P.A.-C, Physician Assistant Advisory Committee Member (in Las Vegas)  
Roy M. Cary, Jr., P.A. C, Physician Assistant Advisory Committee Member (in Las Vegas)  
John Steinmetz, R.R.T., Practitioner of Respiratory Care Committee Member (in Las Vegas)  
Peggy Alby, R.R.T., Practitioner of Respiratory Care Advisory Committee Member (in Las Vegas)  
Art Little, R.R.T., Practitioner of Respiratory Care Advisory Committee Member (in Las Vegas)

Agenda Item 1

**CALL TO ORDER AND ANNOUNCEMENTS**

- Roll Call/Quorum
- Announcement of Appointment by the Governor and Introduction of New Board Member, Beverly Neyland, M.D.

The meeting was called to order by Vice President Benjamin J. Rodriguez, M.D., at 9:35 a.m.

Ms. Guerci-Nyhus took roll call, and all Board Members were present with the exception of Charles N. Held, M.D. President. Ms. Guerci-Nyhus announced that there was a quorum.

Dr. Rodriguez welcomed Beverly A. Neyland, M.D. to the Board and recognized her as the recipient of the first ever Silver Syringe award in Las Vegas in November 2008, for promoting physician involvement in immunization. He then requested a moment of silence in recognition of the tragic death of Dr. Makabenta in Las Vegas. Lastly, Dr. Rodriguez noted the terrorist attack on Arkansas Medical Board Member Dr. Trent Pierce.

Agenda Item 2

**APPROVAL OF MINUTES**

- November 12, 2008 Emergency Telephone Conference Call Board Meeting – Open Session
- December 1, 2008 Emergency Telephone Conference Call Board Meeting – Open Session
- December 5, 2008 Board Meeting – Open/Closed Sessions

Dr. Anwar moved to approve the Minutes of the December 5, 2008 Board Meeting – Open/Closed Sessions. Ms. Stoess seconded the motion, and it passed unanimously.

Mr. Heffner moved to approve the Minutes of the December 1, 2008 Emergency Telephone Conference Call Board Meeting – Open Session. Ms. Stoess seconded the motion, and it passed unanimously.

Mr. Heffner moved to approve the Minutes of the November 12, 2008 Emergency Telephone Conference Call Board Meeting – Open Session. Dr. McBride seconded the motion, and it passed unanimously.

**CONSIDERATION OF ADOPTION OF AMENDMENTS TO NEVADA**

**ADMINISTRATIVE CODE CHAPTER 630**

- Review of Public Comments on, and Consideration of Adoption of, Proposed Amendment to Nevada Administrative Code Chapter 630, to Provide a Definition of Clinical Practice of Medicine as it Relates to the Five-Year Practice Rule
- Consideration of Amendment to Nevada Administrative Code Chapter 630, to Require Nevada Physicians Who Sponsor Demonstrations by Out-of-State Physicians to Adhere to the Standards Enunciated in Chapter 629 of the NRS
- Edward O. Cousineau, J.D., General Counsel

**Review of Public Comments on, and Consideration of Adoption of, Proposed Amendment to Nevada Administrative Code Chapter 630, to Provide a Definition of Clinical Practice of Medicine as it Relates to the Five-Year Practice Rule**

Mr. Cousineau explained that in response to the ambiguity in NRS 630.1605, at the last Board meeting the Board authorized him to proceed with adoption of a temporary regulation to clarify the definition of "actively engaged in the clinical practice of medicine." A workshop and a public hearing were held on the proposed regulation. No public comment was offered at either the workshop or public hearing and he had received no written correspondence relating to the proposed regulation. It is hoped that the Legislature will clean up the statutory language and provide a statutory definition, but the regulation will serve to clarify the definition in the interim and will allow the Board to seek adoption of a permanent regulation in the event the Legislature does not provide a statutory definition. Mr. Cousineau then asked that the Board adopt the regulation as written.

Mr. Heffner moved that the Board adopt the regulation as written. Ms. Stoess seconded the motion.

Discussion ensued concerning whether the regulation would affect licenses issued to residents for training purposes.

A vote was taken on the motion and it passed unanimously.

**Consideration of Amendment to Nevada Administrative Code Chapter 630, to Require Nevada Physicians Who Sponsor Demonstrations by Out-of-State Physicians to Adhere to the Standards Enunciated in Chapter 629 of the NRS**

Mr. Cousineau explained that at the last Board meeting there had been discussion/concern regarding who should retain the medical records when an out-of-state physician comes to the state and works alongside a Nevada physician. It was his understanding at that time that the statute would require the Nevada physician to retain them; however, there is some ambiguity in NRS Chapter 629. Therefore, it would be appropriate to create a regulation that requires the Nevada physician to retain medical records consistent with the protocols of Chapter 629. The regulation would amend NAC 630.225, which contains the reporting requirements for out-of-state licensees. Mr. Cousineau then requested authority to proceed with adoption of a temporary regulation.

Mr. Heffner moved that the Board authorize Mr. Cousineau to proceed with adoption of a temporary regulation. Ms. Stoess seconded the motion.

Discussion ensued concerning the language of the proposed regulation. Dr. Rodriguez suggested that the words "ensuring the" should be removed from the text of the regulation.

Mr. Heffner amended his motion to authorize Mr. Cousineau to proceed with adoption of a temporary regulation with the words "ensuring the" being stricken from the text of the proposed regulation. Ms. Stoess seconded the amended motion, and it passed unanimously.

Agenda Item 4

**ADJUDICATION IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS vs. HARRISTON L. BASS, JR., M.D.*, BME CASE NO. 08-9455-1**

- Christine M. Guerri-Nyhus, J.D., Chief Deputy Attorney General

**OPEN SESSION**

Ms. Guerri-Nyhus named the members of the Investigative Committee who reviewed the case and stated that they should not participate in the adjudication of the matter. She asked the adjudicating Board Members whether they had reviewed the information provided relative to the adjudication, and all indicated they had. She then asked whether any adjudicating Board Members were personally or professionally familiar with Dr. Bass, and all indicated they were not. Ms. Guerri-Nyhus then summarized the facts of the case. The charges against Dr. Bass were one violation of NRS 630.301(1)(a), pursuant to his conviction for murder, and one violation of NRS 630.301(1)(f), pursuant to the 49 convictions for sale of controlled substances and 6 convictions for possession of controlled substances.

Dr. McBride moved that the Board find Dr. Bass guilty of both counts of the Complaint. Mr. Heffner seconded the motion, and it passed unanimously, with all adjudicating Board Members voting in favor of the motion.

Ms. Guerri-Nyhus read the disciplinary options available to the Board.

Mr. Cooper stated the costs incurred by the Board in the investigation were \$51,499.97.

Discussion ensued concerning the type of discipline that should be imposed.

Dr. McBride moved that Dr. Bass' license to practice medicine be revoked and that he reimburse the Board's costs and expenses incurred in the prosecution of the case against him within one year. Mr. Heffner seconded the motion.

Discussion ensued concerning whether a fine should also be imposed and the amount of such fine.

Dr. McBride amended his motion to include a fine of \$5,000 per count, payable within one year. Mr. Heffner seconded the amended motion.

Further discussion ensued concerning the amount of the fine.

A vote was taken on the motion and it passed unanimously, with all adjudicating Board Members voting in favor of the motion.

#### Agenda Item 5

#### ADJUDICATION IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS vs. SCOTT OLDS, M.D.*, BME CASE NO. 07-7202-1

- Christine M. Guerci-Nyhus, J.D., Chief Deputy Attorney General

#### OPEN SESSION

Ms. Guerci-Nyhus named the members of the Investigative Committee who reviewed the case and stated that they should not participate in the adjudication of the matter. She asked the adjudicating Board Members whether they had reviewed the information provided relative to the adjudication, and all indicated they had. She then asked whether any adjudicating Board Members were personally or professionally familiar with Dr. Olds. Dr. Neyland stated that both she and Dr. Olds work for the University of Nevada School of Medicine, but are in different departments, and that she sees him and speaks to him briefly at work, but that would not affect her ability to fairly adjudicate the matter. Ms. Guerci-Nyhus then summarized the facts of the case. Dr. Olds was charged with one violation of NRS 630.301(4), for malpractice.

Discussion ensued concerning Dr. Olds' treatment of the patient and whether it fell below the standard of care.

Dr. Anwar moved that the Board find that Dr. Olds did not violate the statute. Mr. Heffner seconded the motion, and it passed unanimously, with all adjudicating Board Members voting in favor of the motion.

Ms. Guerci-Nyhus stated that pursuant to statute, the Board needed a second motion to dismiss the charges since no violation was found to have occurred.

Dr. Anwar moved that the Board dismiss the charges against Dr. Olds. Mr. Heffner seconded the motion, and it passed unanimously, with all adjudicating Board Members voting in favor of the motion.

#### Agenda Item 6

#### ADJUDICATION IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS vs. FADI HAMWI, M.D.*, BME CASE NO. 08-12826-1

- Christine M. Guerci-Nyhus, J.D., Chief Deputy Attorney General

#### OPEN SESSION

Ms. Guerci-Nyhus named the members of the Investigative Committee who reviewed the case and stated that they should not participate in the adjudication of the matter. She asked the adjudicating Board Members whether they had reviewed the information provided relative to the adjudication, and all indicated they had. She then asked whether any adjudicating Board Members were personally or professionally familiar with Dr. Hamwi, and all indicated they were not. Ms. Guerci-Nyhus then summarized the facts of the case. Dr. Hamwi was charged with

one violation of NRS 630.3062(1), for failure to maintain timely, legible, accurate and complete medical records, and one violation of NRS 630.306(9), for failing to provide an accurate mailing address to the Board.

Discussion ensued concerning the facts of the case.

Dr. McBride moved that the Board find Dr. Hamwi guilty of both counts of the Complaint. Mr. Heffner seconded the motion, and it passed unanimously, with all adjudicating Board Members voting in favor of the motion.

Mr. Cooper stated the costs incurred by the Board in the investigation were \$4,635.62.

Dr. McBride moved that the Board suspend Dr. Hamwi's license to practice medicine until further order of the Board, that he be fined \$1,000 per count, for a total of \$2,000, payable within one year. and that he reimburse the Board's costs and expenses incurred in the prosecution of the case against him within one year. Mr. Heffner seconded the motion, and it passed unanimously, with all adjudicating Board Members voting in favor of the motion.

Agenda Item 7

**ADJUDICATION IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS* vs. *STEVEN YEARSLEY, M.D.*, BME CASE NO. 07-12232-1**

- Christine M. Guerri-Nyhus, J.D., Chief Deputy Attorney General

**OPEN SESSION**

Ms. Guerri-Nyhus named the members of the Investigative Committee who reviewed the case and stated that they should not participate in the adjudication of the matter. She asked the adjudicating Board Members whether they had reviewed the information provided relative to the adjudication, and all indicated they had. She then asked whether any adjudicating Board Members were personally or professionally familiar with Dr. Yearsley, and all indicated they were not. Ms. Guerri-Nyhus then summarized the facts of the case. Dr. Yearsley was charged with two violations of NRS 630.301(3), for modification of his Utah license to practice medicine and for stipulated surrender of his California license to practice medicine.

Discussion ensued concerning the facts of the case.

Dr. Anjum moved that the Board find Dr. Yearsley guilty of both counts of the Complaint. Dr. Anwar seconded the motion, and it passed unanimously, with all adjudicating Board Members voting in favor of the motion.

Mr. Cooper stated the costs incurred by the Board in the investigation were \$5,319.87.

Discussion ensued concerning the discipline that should be imposed.

Dr. Anjum moved that Dr. Yearsley be fined \$100 and that he reimburse the Board's costs and expenses incurred in the prosecution of the case against him, both payable within one year. Dr. McBride seconded the motion, and it passed unanimously, with all adjudicating Board Members voting in favor of the motion.

Agenda Item 8

CONSIDERATION OF STIPULATION FOR SETTLEMENT IN THE MATTER  
OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. ADELAIDA  
RESUELLO, M.D.*, BME CASE NO. 08-11489-1

- Lyn E. Beggs, J.D., General Counsel

OPEN SESSION

Ms. Beggs explained that this case had been revisited by the Investigative Committee and it was decided that a dismissal without prejudice was the most appropriate and equitable resolution of the matter.

Dr. Anjum moved that the Board accept the recommendation for dismissal. Dr. Anwar seconded the motion, and it passed unanimously, with all adjudicating Board Members voting in favor of the motion.

Agenda Item 9

CONSIDERATION OF STIPULATION FOR SETTLEMENT IN THE MATTER  
OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. BENJAMIN  
VENGER, M.D.*, BME CASE NO. 08-9819-1

- Edward O. Cousineau, J.D., General Counsel

OPEN SESSION

Dr. Venger's attorney, Ms. Kathleen Janssen, Esq., appeared on behalf of Dr. Venger.

Mr. Cousineau explained that in June of 2008, the Board filed a three-count complaint against Dr. Venger alleging certain conduct based upon Dr. Venger's involvement in a federal trial in March of 2008, at which he testified as a government witness in support of the allegations against the two defendants in the case. The first count alleges a violation of NRS 630.301(7), engaging in conduct that violates the trust of a patient and exploits the relationship between a physician and a patient; the second alleges a violation of NRS 630.301(9), for engaging in conduct that brings the medical profession into disrepute; and the third count alleges a violation of NRS 630.306(2)(a), engaging in conduct which is intended to deceive. Mr. Cousineau stated that settlement negotiations in the case had been rather protracted and involved. He then described the terms of the proposed settlement.

Discussion ensued concerning the terms of the proposed settlement agreement and whether they were appropriate in light of the underlying facts in the case.

Ms. Janssen stated that Dr. Venger had practiced medicine in Nevada for over 20 years and during that time period, he had no malpractice actions, no complaints with the Board or disciplinary actions. She talked about the misinformation that had been reported in the media and the fact that Dr. Venger came forward in the federal matter even though he knew that he would be hearing from the medical boards with which he is licensed. She advocated for acceptance of the settlement.

Further discussion ensued concerning the terms of the proposed settlement agreement, particularly with respect to the number of hours of community service.

Dr. McBride moved that the Board reject the settlement as presented. Mr. Heffner seconded the motion.

Ms. West asked whether any action had been taken against Dr. Venger's licenses in other states, and Ms. Janssen explained that other states have opened investigations but are waiting for the outcome of the Nevada Board's case.

A vote was taken on the motion, and it passed unanimously, with all adjudicating Board Members voting in favor of the motion.

Dr. Anjum moved that the Board authorize its legal counsel to enter into further settlement negotiations with Dr. Venger's counsel that include an increase in the number of hours of community service by 500 to 1,000 hours, the additional hours preferably at the UMC Trauma Center or surgical department, if possible. The motion failed for lack of a second.

Discussion ensued concerning whether performing his community service at UMC would be possible due to the fact that Dr. Venger currently has no malpractice insurance.

Dr. Anjum moved that the Board allow Dr. Venger to begin working at the federal hospital pursuant to the settlement agreement, but that the Board's legal counsel and Dr. Venger's counsel negotiate additional hours of community service, preferably at a community hospital.

Mr. Cousineau suggested the Board adopt the terms in the settlement agreement with the addition of additional hours of community service and asked for clarification from Dr. Anjum concerning the terms for the additional hours.

Dr. Anjum stated he would like 500 additional hours at a different facility over the three-year probationary period.

Discussion ensued concerning negotiation of a new settlement agreement.

Dr. McBride moved that the Board conclude discussion of the matter. The motion failed for lack of a second.

Dr. Anjum moved that the Board's legal counsel negotiate a new settlement that includes additional hours of community service, and bring the new settlement proposal back to the Board. Dr. Neyland seconded the motion.

Discussion ensued concerning the procedure for negotiating a new settlement and bringing it back to the Board for consideration.



A vote was taken on the motion, and it passed, with Dr. McBride voting against the motion and all other adjudicating Board Members voting in favor of the motion.

Agenda Item 10

**CONSIDERATION OF DISMISSAL WITHOUT PREJUDICE IN THE MATTER OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. GREGG RIPPLINGER, M.D., BME CASE NO. 08-6406-1**

- Lyn E. Beggs, J.D., General Counsel

**OPEN SESSION**

Dr. McBride disclosed that he had been a resident with Dr. Ripplinger and was associated with Dr. Ripplinger in a larger organization, and therefore was recusing himself from consideration of the matter.

Ms. Beggs explained that after considering additional information which had been provided after the formal complaint had been filed, the Investigative Committee now recommended dismissing the matter.

Mr. Heffner moved that the Board accept the dismissal. Dr. Neyland seconded the motion, and it passed unanimously, with all adjudicating Board Members voting in favor of the motion.

Agenda Item 11

**CONSIDERATION OF REQUEST OF MEDICAL EDUCATION ADVOCATES FOR APPROVAL OF "ABOUT FACE 2009" SEMINAR, MARCH 27-29, 2009, IN LAS VEGAS, NEVADA**

- Michael Edwards, M.D.; Lynnette L. Daniels, Chief of Licensing

Ms. Daniels stated that Michael Edwards, a Nevada licensee, was requesting approval to bring in three out-of-state physicians to conduct demonstrations at the About Face 2009 seminar. All three physicians' licenses had been verified and were in good standing, and she did not see any problem with the request.

Mr. Heffner moved that the Board approve the request. Ms. Stoess seconded the motion, and it passed unanimously.

Agenda Item 12

**CONSIDERATION OF REQUEST OF MEDICAL EDUCATION ADVOCATES FOR APPROVAL OF THE ASAPS ANNUAL MEETING, MAY 2-9, 2009, IN LAS VEGAS, NEVADA**

- Michael Edwards, M.D.; Lynnette L. Daniels, Chief of Licensing

Ms. Daniels stated that Dr. Edwards was requesting approval for several out-of-state physicians to participate in the ASAPS Annual Meeting. All physicians' licenses had been verified. She notified Dr. Edwards that since Dr. Kinkel had participated in demonstrations in Nevada before, if he were to come back again he would have to obtain an unrestricted license, and the same would apply to any other physicians that come to the state to

participate in these demonstrations numerous times. Dr. Edwards will maintain the medical records and will accept all liability for any adverse outcomes at the meeting.

Discussion ensued concerning whether and when a license should be required for out-of-state physicians who come to the state frequently to provide demonstrations.

Dr. Anwar moved that the Board approve Dr. Edwards' request. Mr. Heffner seconded the motion, and it passed unanimously.

#### Agenda Item 13

#### DISCUSSION AND DETERMINATION CONCERNING CME AUDITS

- Louis Ling, J.D., Executive Director

Mr. Ling presented a proposal concerning how to handle the audits for CME compliance following the upcoming renewal season. The proposal is to audit 10% of the licensees who have renewed, selected randomly. Licensees that are found to have inaccurately represented to the Board that they had completed their CME when they had not will be offered a non-disciplinary way to come into compliance. They will pay an additional licensing fee, complete the deficit hours within 15 days and will be audited again after the next renewal season. If they accept and comply with those conditions, it will not be deemed a disciplinary action. If they don't want to accept the terms, they can have a hearing, which will become a disciplinary matter. This is a simple way to assess an appropriate penalty for misrepresentation of completion of CMEs and remedy the situation.

Discussion ensued concerning the proposed terms. Dr. Rodriguez suggested changing the number of days in which to complete the deficit hours to 30.

Dr. Calavanese suggested that proof of taking the CMEs be submitted with the fine, all within 30 days.

Discussion ensued concerning the penalties that should be assessed and the procedure for assessing same.

Ms. Stoess moved that the Board approve the proposed procedure with the changes suggested during the discussion. Mr. Heffner seconded the motion, and it passed unanimously.

#### Agenda Item 14

#### CONSIDERATION OF REQUEST BY PHYSICIAN ASSISTANT ADVISORY COMMITTEE FOR REGULATORY CHANGE

- John B. Lanzillotta, P.A.-C, Physician Assistant Advisory Committee Member

John B. Lanzillotta, P.A.-C told the Board that he wanted to follow up on the Advisory Committee's request for consideration of regulatory changes to NAC 630.285, discontinuing the recertification requirements for physician assistants after passing the initial examination and instead increasing the number of CME hours, which would require a change in NAC 630.153(1). The Advisory Committee very firmly believes in initial certification as a requirement, but continued recertification has not proven to be the standard. There are 32 states that don't require the exam. The American Academy of Physician Assistants does not include it in their criteria for model legislation.

Discussion ensued concerning whether the change should be made. Mr. Ling stated that Nevada statutes currently hold physician assistants to a higher standard than physicians by way of the current recertification requirement.

Dr. McBride moved that the Board support the Advisory Committee's request for regulatory changes. Ms. Stoess seconded the motion.

Discussion ensued concerning the appropriateness of the request.

Dr. McBride stated that since physicians are not required to recertify, the Board should not put that burden upon physician assistants.

Mr. Ling stated that if the Board passed the motion, staff would begin the regulation-writing process and would coordinate with the Physician Assistant Advisory Committee to put together language that works for both the Board and the Committee, based on the motion.

Dr. McBride amended his motion to move that the Board support the proposed regulatory changes to no longer require recertification and specify that the 40 CME hours required be Category 1 AMA approved. Ms. Stoess seconded the amended motion, and it passed unanimously.

#### Agenda Item 15

#### **CREATION OF AND APPOINTMENT TO AD-HOC COMMITTEE TO DEVELOP RFQ FOR DIVERSION PROGRAM**

- Louis Ling, J.D., Executive Director

Mr. Ling stated the Board's current contract with its present Diversion Program expires in June. He had talked with the State Purchasing Division to find out what the Board needed to do by way of re-contracting or starting over. They suggested that rather than submitting a Request for Proposals, meaning the Board would then select one of the proposers, the Board submit a Request for Qualifications, which would allow the Board to set the qualifications for what the Board expects a provider of those services to do, and choose as many who qualify as it wants. All those who think they have the qualifications can submit proposals and the Board can enter into an agreement with any and all it adjudges to have the qualifications. This way, there is the potential the Board will have a variety of programs available to its applicants and licensees. Mr. Ling requested the Board appoint an ad-hoc committee of however many Board members were willing to assist him in developing the qualifications and that way he could get the process moving so the Board will have something in place by the time the current contract expires in June.

Ms. Stoess volunteered to serve on the committee.

Discussion ensued concerning the current Diversion Program.

Mr. Ling stated the intent was to find a way for the Board to obtain the services its needs for its licensees without having to pay for them.

Dr. McBride stated he is in favor of the Board continuing to support the existing Diversion Program.

Further discussion concerning the current Diversion Program.

Dr. Neyland volunteered to serve on the committee.

#### Agenda Item 16

#### REPORTS

- Diversion Program - Quarterly Report - Peter Mansky, M.D., Director, Nevada Health Professionals Assistance Foundation
- Physician Assistant Advisory Committee - John B. Lanzillotta, P.A.-C, Advisory Committee Member
- Practitioner of Respiratory Care Advisory Committee - John H. Steinmetz, R.R.T., Advisory Committee Member
- Investigative Committees - Benjamin J. Rodriguez, M.D., Vice President, Investigative Committee A  
Sohail U. Anjum, M.D., Board Member, Chairperson, Investigative Committee B
  - Consideration of Cases Recommended for Closure by the Committees
- Investigations Division - Douglas C. Cooper, Chief of Investigations; Shawna M. Rice, Compliance Officer/Investigator
  - Status of Investigative Caseload
  - Annual Compliance Report for 2008
- Nevada State Medical Association Liaison Report - Lawrence P. Matheis, Executive Director, Nevada State Medical Association
- Clark County Medical Society Liaison Report - Benjamin J. Rodriguez, M.D., Board Vice President; Warren Evins, M.D., Ph.D., FACP, Executive Director, Clark County Medical Society
- Washoe County Medical Society Liaison Report - Jeanie L. Catterson, Executive Director, Washoe County Medical Society
- Secretary-Treasurer - Renee West, Secretary-Treasurer
  - Status of Finances

#### **Diversion Program: Quarterly Report**

Peter A. Mansky, M.D., Director of the Nevada Health Professionals Assistance Foundation, introduced Tim Caughlin, whom he said had been instrumental in developing the initial programs which started 10 to 12 years before. He then showed the Board a PowerPoint presentation to demonstrate what the NHPAF program does and the results it obtains. He described how the Program currently obtains its funding and described the services the NHPAF program offers.

#### **Physician Assistant Advisory Committee**

There was no report given in addition to the matters discussed in Agenda Item 14.

## Practitioner of Respiratory Care Advisory Committee

John H. Steinmetz, R.R.T. stated the Advisory Committee had no formal report but he wanted to update the Board regarding an issue of concern to respiratory care practitioners in Nevada, which is polysomnography licensing. Across the country they have seen attempts by, and in one case success by, non-respiratory-trained sleep professionals seeking licensing regulations that exclude respiratory care practitioners. Much of the training respiratory care practitioners receive are those things that are utilized in sleep diagnostics. The Advisory Committee hopes the Board will be cognizant of any activities that may occur on the state legislative level that would impact respiratory care practitioners that practice in the area of sleep medicine.

**Investigative Committees – Benjamin J. Rodriguez, M.D., Vice President,  
Investigative Committee A  
Sohail U. Anjum, M.D., Board Member, Chairperson,  
Investigative Committee B**

### - Consideration of Cases Recommended for Closure by the Committees

Dr. Rodriguez reported that Investigative Committee A had considered 86 cases, authorized the filing of a formal complaint in 7 cases, referred 7 cases back to investigative staff for further investigation or follow-up, and recommended closure of 65 cases.

Dr. Anjum reported that Investigative Committee B had considered 69 cases, authorized the filing of a formal complaint in 4 cases, requested an appearance in 4 cases, issued 17 letters of concern, sent 1 case out for peer review, and recommended closure of 43 cases.

Dr. McBride moved to approve for closure the cases recommended by the Investigative Committees. Mr. Heffner seconded the motion, and it passed unanimously.

## Investigations Division

### - Status of Investigative Caseload

Mr. Cooper reported that at the last Board meeting there were 473 open investigations, which equated to 74 per investigator, and they currently have 372 open investigations, which is down to 66 per investigator. There are 41 peer reviews in the field and 15 to be assigned. At the last Investigative Committee meetings, a total of 155 cases were considered, 125 were closed, 11 were sent to Legal for formal complaints, 6 were added to the peer review queue and 13 were sent out for other action.

### - Annual Compliance Report for 2008

Ms. Rice reported that currently the oldest case in the compliance program is from 2001. There are 43 open cases on the Investigations side, the majority of which are from 2007/2008, and 34 open cases from Licensing, for a total of 77. The number of letters of concern have continued to increase, as have the compliance monitoring fees. The written report provided to the Board included a summary of what is owed to the Board in costs, what is owed to the state in fines, and what has been collected in 2008. In reviewing the numbers, she had found some discrepancies in what had been reported previously, and the numbers had been rectified and were now correct.

Mr. Cooper added that the amount of costs collected in 2008 was the best ever, at \$61,000.

### **Nevada State Medical Association Liaison Report**

Lawrence P. Matheis, Executive Director of the Nevada State Medical Association, reported that Mr. Lee and he had been working together to try to amend the bill the Department of Health and Human Services has proposed that would remove the requirement that the State Medical Officer be a licensed physician. He made a standing invitation for any Board Member who would like to participate to attend meetings held every Thursday evening at 6 p.m., at the Nevada State Medical Association offices, where they hold open discussions with the leadership of the county medical societies and specialty societies to talk about the legislation that affects medicine and health care. On February 21st, there was going to be a joint hearing of the two legislative health committees on the hepatitis C outbreak and the legislation that has been proposed to deal with that. He provided an update concerning the activities the Nevada State Medical Association has been involved in concerning issues of injection practices and injection safety.

### **Clark County Medical Society Liaison Report**

Warren Evins, M.D., Temporary Executive Director of the Clark County Medical Society, reported on recent activities of the Clark County Medical Society and the Southern Nevada Health District.

Dr. Rodriguez had nothing to report.

### **Washoe County Medical Society Liaison Report**

Jeanie L. Catterson from the Washoe County Medical Society was not present to provide a report.

### **- Secretary-Treasurer - Status of Finances**

Ms. West stated the Board's staff had been very diligent in reducing expenses and it was impressive to see the team effort in controlling the expenses and looking for ways to get the Board through this tough period. Even so, it is anticipated there will be a cashflow crunch due to changes in the renewal season, but the Board can meet its expenses on a monthly basis. However, there is no room for any extra expenses and it will require everyone to continue to be very diligent with respect to all expenses.

Mr. Ling added that the renewal period will not begin until May this year so the Board will not begin receiving that money until two months later than usual. Additionally, the projections in the Solari & Sturmer report appear to be pretty accurate.

Mr. Heffner moved that the Board accept the report. Dr. Anjum seconded the motion, and it passed unanimously.

#### Agenda Item 17

#### **EXECUTIVE STAFF REPORTS**

- Discussion and Approval of New Website Design and Implementation
- Discussion and Approval of Legislative Developments and Issues
- Discussion and Approval of Online License Renewal Processing Fee
- Discussion and Approval of Desktop Meeting Solution
- Discussion and Determination Regarding Pharmacy Board Proposal Concerning Anesthesia Monitoring
- Consideration of Request for Staff and Board Member Attendance at Educational Meetings
- Informational Items
- Louis Ling, J.D., Executive Director

#### **Discussion and Approval of New Website Design and Implementation**

Mr. Ling advised the Board that the website had been completely redesigned and the intent was to make it consumer friendly, user friendly, and much easier to navigate. He provided the Board Members with the URL to the new website template and asked that they look at it and notify him or Ms. Munson as to any comments they had.

#### **Discussion and Approval of Legislative Developments and Issues**

Mr. Ling stated the Board's bill is presently being drafted and has been assigned a BDR number. He asked the Board Members whether they had any questions or concerns with the present language.

Dr. Rodriguez asked about the change in the 36-month progressive postgraduate training requirement. Discussion ensued concerning the reasons. At the end of the discussion, Mr. Ling stated the language would remain as is and as the same issue comes up in the future, the applicant will be brought before the Board for a decision as in the past.

Dr. Anwar asked whether there were any bills that may affect the structure of the Board.

Mr. Ling stated that none of the bills that might affect the Board structurally had been introduced yet, he thought in large part because legislators are waiting to see what the Board introduces. He had been assured by Senator Carlton, the Chair of the Senate Commerce Committee, that she would introduce the Board's bill. Senator Carlton also has an omnibus bill that will address all the boards and commissions but he didn't yet know what would be contained in it. There are also some bills that may affect the practice of medicine.

Dr. Rodriguez asked about the change in the language concerning signing of formal complaints. Discussion ensued.

Dr. Rodriguez asked about the requirement that a hearing be held within 45 days when an order summarily suspending a licensee's license is issued. Discussion ensued.

Mr. Ling then highlighted some of the other items contained in the Board's bill.

Discussion ensued concerning striking the language that allows people 10 days to comply with a subpoena issued by the Board and it was the consensus to remove it.

Discussion ensued concerning the language requiring that medical school records be received directly from the medical school and adding language that if proof of attendance is not available from the school itself, the Board may accept proof from another source deemed to be reliable.

Mr. Ling advised the Board that there are 22 perfusionists in the state and they have requested that the Board license them. Discussion ensued concerning the licensing fees that should be assessed. Mr. Ling stated that all the Board had to decide that day was whether it would oppose licensing the perfusionists. The consensus was that it was a good idea and that the national trend is to license them and if the Board licenses them it might attract more to come to the state.

Discussion ensued concerning Dr. Bonnet's request that language be included in the Board's bill that volunteer physicians who serve only in the emergency medical corps of Homeland Security not be charged a licensing fee. The consensus was that it should not be included in the Board's bill.

#### **Discussion and Approval of Online License Renewal Processing Fee**

Mr. Ling stated that a \$5 processing fee would be assessed for online renewals to help defray the costs of processing those renewals on the administrative side.

#### **Discussion and Approval of Desktop Meeting Solution**

Mr. Ling told the Board a proposal had been received for a desktop meeting solution and it came in much higher than anticipated, so it would be brought to the Board for discussion at a future meeting as part of the next budget.

#### **Discussion and Determination Regarding Pharmacy Board Proposal Concerning Anesthesia Monitoring**

Mr. Ling stated the item was placed on the agenda at the request of the Pharmacy Board, at the request of Assemblywoman Leslie. They are asking all licensing boards that have practitioners who dispense or administer anesthesia to consider asking their practitioners to utilize a tracking form that the Pharmacy Board had created. If the Board was agreeable, the form could be placed on the Board's website so its licensees could download it and they could be notified in the Board's next newsletter. The matter had come up pre-session and since there are two or three bills dealing with in-office anesthesia, the matter could become moot depending on what happens with the Legislature.

Discussion ensued concerning the proposal.



## Consideration of Request for Staff and Board Member Attendance at Educational Meetings

Mr. Ling advised the Board that Mr. Cooper would be attending the 2009 Federation meeting in his place and has a \$1,600 scholarship. Dr. Held also has a \$1,600 scholarship to attend. It costs the Board approximately \$2,100 per attendee. The current Board policy is that one staff member and two Board Members attend unless the Board votes otherwise. He asked that the Board consider sending no more than two additional Board Members and that priority be given to the new Board Members, which would keep the cost to the Board at around \$5,000.

Dr. McBride moved that the Board ask the three new Board Members whether they would attend, if available, and if so, send all three, as it is an important meeting, and in the future it is important that educational opportunities and activities not be sacrificed for financial reasons so the Board should try to send as many people as possible.

Ms. West suggested that if not all new Board Members could attend, then it should remain restricted as Louis had outlined.

Mr. Heffner said he would not be able to attend this year due to legislative commitments but would like to go next year.

Ms. West stated she would not be able to attend.

Dr. Calvanese expressed an interest in attending. Dr. McBride stated the Board should find the money to send him.

Dr. Rodriguez moved that in view of the Board's current financial status, the Board send those people designated – Dr. Neyland, Dr. Calvanese, Dr. Held and Mr. Cooper. Ms. West seconded the motion, and it passed unanimously.

### Agenda Item 18

**LEGAL REPORTS** - Edward O. Cousineau, J.D., General Counsel; Lyn E. Beggs, J.D., General Counsel; Christine M. Guerci-Nyhus, J.D., Chief Deputy Attorney General  
- Board Litigation Status

#### - Board Litigation Status

Mr. Cousineau reported there had been four adjudications, one proposed settlement and two dismissals before the Board at the meeting, 32 letters of concern had been sent out following the December Investigative Committee Meetings, and 34 new letters would be sent out. There were 34 cases scheduled for hearing through August 20, 2009. Eight formal complaints had been filed since the last Board meeting and 24 cases were pending filing of formal complaints, 11 of which were approved during the latest Investigative Committee meetings. There are still two cases on appeal. In the Wick matter, the Board just received notice that a briefing schedule will be set in the Nevada Supreme Court, and the Lakner case is still pending setting of oral argument in Washoe District Court on judicial review.

Ms. Guerci-Nyhus reported the Attorney General's Office still had the two restraining orders against Dr. Desai and Dr. Carrera in place in the Eighth Judicial District Court. In November and December, the Attorney General's Office brought injunctive relief actions against the doctors associated with Valley Eye Center – Anamika Jain, Stella Chou and Paul Cutarelli – as well as an unlicensed physician, Vikas Jain, and Valley Eye Center itself. They had obtained injunctive relief and restraining orders against all except Dr. Cutarelli, who was probably the least involved. There are also a number of litigation cases in which the Board is involved. Dr. McBride is a party in a case with Dr. Hirschfeld and there is a new case against the Board filed by Richard Bell, on behalf of his child, wherein he alleges the Board failed to investigate and take action on a complaint he filed with Board. Ms. Guerci-Nyhus will be filing a motion to dismiss in that case. The case filed by Dr. Juan Manzur against Steven Montoya was dismissed at the district court level but has been appealed to the Ninth Circuit by Dr. Manzur. Ms. Guerci-Nyhus advised the Board she had received a phone call from the New Jersey State Bar Association, who recognized the work done by Board staff in the endoscopy and Valley Eye cases and are using some of those cases as part of a CLE. She had also received calls from the attorney for the New York Medical Board and one from the California Board complimenting the work that had been done.

#### Agenda Item 19

##### LICENSURE RATIFICATION

- Ratification of Licenses Issued, and Reinstatements of Licensure and Changes of Licensure Status Approved Since the December 5, 2008 Board Meeting

Dr. McBride moved that the Board ratify the licenses issued and reinstatements of licensure and changes of licensure status approved since the December 5, 2008 Board meeting. Dr. Anjum seconded the motion, and it passed unanimously.

##### RECESS

Dr. Rodriguez recessed the meeting for lunch at 1:10 p.m.

##### RECONVENE

Dr. Rodriguez reconvened the meeting at 1:45 p.m.

#### Agenda Item 20

##### APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS FOR LICENSURE

##### 20(a) John Peter Christensen, M.D.

Ms. Daniels asked Dr. Christensen whether he wanted his application to be considered in closed session, with the public being excluded, and he said that he did not.

Ms. Daniels stated that Dr. Christensen was appearing before the Board due to staff concerns about the medical school he attended as well as some pending issues in Florida.

Dr. Rodriguez questioned Dr. Christensen concerning his medical school, and Dr. Christensen described his training there.

Dr. Rodriguez questioned Dr. Christensen concerning his affirmative response to Question 19 on his application for licensure, and Dr. Christensen described the circumstances surrounding being placed on probation during residency training.

Mr. Heffner questioned Dr. Christensen concerning his affirmative response to Question 13 on his application for licensure, and Dr. Christensen explained the circumstances surrounding his conviction for making a false statement on a passport application.

Mr. Heffner questioned Dr. Christensen concerning his affirmative response to Question 12 on his application for licensure, and Dr. Christensen described the circumstances surrounding the malpractice cases against him.

Discussion ensued concerning Dr. Christensen's responses to the questions asked of him.

Dr. McBride advised Dr. Christensen he had the option to withdraw his application.

Dr. Christensen left the room to consider his options. When he returned, he asked whether the Board could issue him a restricted license.

Discussion ensued concerning whether a restricted license would be appropriate for Dr. Christensen and it was determined it would not.

Dr. Christensen withdrew his application.

#### 20(b) Yoana Peteva, M.D.

Ms. Daniels asked Dr. Peteva whether she wanted her application to be considered in closed session, with the public being excluded, and she said that she did not.

Ms. Daniels stated that Dr. Peteva was appearing before the Board due to her negative response to Question 19 on her application.

Dr. McBride Questioned Dr. Peteva concerning her negative response to Question 19 on her application, when she should have responded in the affirmative, the fact that she omitted from her application the time she spent at Albany Medical Center as PGY2, and the discrepancy between her statement as to why she left and the program director's statement.

Dr. Peteva stated she responded to those questions in the manner that she did because her experience at Albany Medical Center was a very painful one, but she did not intend to hide anything. She explained the circumstances surrounding her training at Albany Medical Center.

Dr. McBride stated that truthfulness of an application is a must and is grounds for denial of an application. He advised Dr. Peteva that she had the option to withdraw her application.

Dr. Peteva left the room to consider her options. When she returned, she stated that she had just received her Visa and wondered whether that would make a difference to the Board in considering her application. She acknowledged that she had made a mistake and that it was emotional, but stated her CV would establish she was a strong candidate.

Dr. Rodriguez stated her Visa did not have a bearing on the Board's consideration of her application.

Dr. McBride advised her that if she withdrew her application, she could reapply in the future.

Dr. Peteva withdrew her application.

**20(c) Ranjiv Saini, M.D.**

Ms. Daniels asked Dr. Saini whether he wanted his application to be considered in closed session, with the public being excluded, and he said that he did not.

Ms. Daniels stated that Dr. Saini was appearing before the Board due to his affirmative response to Question 12 on his application for licensure.

Dr. Rodriguez questioned Dr. Saini concerning the single malpractice case against him, and Dr. Saini described the circumstances surrounding the case.

Dr. Rodriguez moved that the Board grant Dr. Saini's application for licensure. Ms. Stoess seconded the motion, and it passed unanimously.

**20(e) Jeffrey Leake, M.D.**

Ms. Beggs asked Dr. Leake whether he wanted his application to be considered in closed session, with the public being excluded, and he said that he did not.

Dr. Anwar questioned Dr. Leake concerning his affirmative responses to Questions 8 and 9 on his application for licensure, and Dr. Leake described his medical condition. He stated he has a contract with the Diversion Program.

Dr. Anwar questioned Dr. Leake concerning why he responded in the negative to Question 13 on his application, when he should have responded in the affirmative, and Dr. Leake stated it was a transcription error. He described the circumstances surrounding his arrest in 2004.

Dr. Anwar moved that the Board grant Dr. Leake's application for licensure contingent upon his participation in and completion of his contract with the Diversion Program. Dr. Anjum seconded the motion, and it passed unanimously.

20(f) James Small, M.D.

Ms. Beggs asked Dr. Small whether he wanted his application to be considered in closed session, with the public being excluded, and he said that he did not.

Ms. West questioned Dr. Small concerning the fact that he had not actively practiced clinical medicine in the last five years. Dr. Small described what he planned to do if granted a license.

Discussion ensued concerning whether Dr. Small would qualify for licensure if he passed a peer review.

Dr. Small explained that he had practiced clinically part-time from June 2007 to April 2008 in a clinic setup.

Dr. Anwar moved to grant Dr. Small's application for licensure contingent upon successful passage of a peer review. Dr. Rodriguez seconded the motion.

Discussion ensued concerning what specialty the physician should have who conducts the peer review.

A vote was taken on the motion, and it passed unanimously.

Agenda Item 22

PUBLIC COMMENT

Dr. Rodriguez asked whether there were any members of the public present who would like to make a public comment, and there were none.

ADJOURNMENT

Ms. Stoess moved to adjourn the meeting. Ms. West seconded the motion, and it passed. Dr. Rodriguez adjourned the meeting at 4:20 p.m.

\* \* \* \* \*